

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAF) NO. 314/2022 IN
FIRST APPEAL ST. NO. 12846/2021

Bala S/O Sukal Dahare (Dead) Thr. Lrs. Randhir S/O Bala Dahare And Others

Vs

The State Of Maharashtra And Others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr S.N. Nandeshwar, advocate for the appellants/applicants.

Mr M.A. Kadu, AGP for the respondent Nos.1, 4 and 5.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 09/03/2023.

1. This application is for condonation of delay which is caused in preferring the appeal against the judgment and decree passed by the learned Civil Judge, Senior Division, Umred.
2. The appellants are the original claimants. As per the contention of the appellants, they are illiterate persons and their land is already acquired by the Government. Now, they have no source of income. The amount of compensation granted by the learned Reference Court is inadequate and therefore, this appeal is preferred for enhancement of the compensation. Due to illiteracy, they were not aware about the legal provisions and therefore, they could not approach to the Court. Moreover, due to the acquisitions of the land, their financial condition was weak and therefore, they could not arrange the amount for the Court fee. Therefore, the appellant could not file the appeal.

3. Thus as per the contention of the appellants, the reason mentioned in the application is satisfactory and sufficiently explained for condoning the delay.

4. The said application is opposed by the learned AGP for respondent Nos. 1,4 and 5. None appears for respondent Nos. 2 and 3.

5. Mr. M.A. Kadu, learned AGP submitted that the delay is not properly explained and hence delay condonation application is deserved to be rejected.

6. Heard both the sides. Perused the application.

7. In view of the reasons mentioned in the application that appellants could not arrange money for the Court fee and therefore, could not file the appeal in time appears to be reasonable and just one. Therefore, the liberal approach is to be taken to substantial justice. A delay of 531 days in filing the first appeal is condoned, subject to the waiver of the interest if the appellant succeeds in the appeal. Civil application No. 314/2022 is disposed of.

First Appeal St. No.12846/2021

1. Appeal be registered.
2. Admit
3. Call for record and proceedings.

4. Appellant to file private paper-book within a period of eight weeks after receipt of the record and proceedings.
5. Place the matter for final hearing after filing of private paper-book and its verification, as per its own turn.

JUDGE